



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Wellington Associates, Inc.

File: B-228168.2

Date: January 28, 1988

DIGEST

After conducting one round of discussions with offeror, agency properly determined that offeror was no longer in the competitive range since its proposal was found technically unacceptable based on agency's evaluation which was supported by reasonable bases.

DECISION

Wellington Associates, Inc., protests the award of any contract under request for proposals (RFP) No. DABT56-87-R-0030, issued by the Department of the Army, Fort Belvoir, Virginia, for full food and mess attendant services at Fort Belvoir. Wellington asserts that its proposal should not have been excluded from the competitive range as technically unacceptable.

We deny the protest.

The RFP was issued on August 3, 1987, and was subsequently amended several times. The RFP contemplated award of a firm, fixed-price contract for full food and mess attendant services for a base year and 4 option years. Of the 17 proposals received in response to the solicitation, 9 were initially rejected as technically unacceptable because they were found to have no reasonable chance of award due to technical inadequacies requiring major revisions. The remaining eight proposals, including the protester's, were included in the competitive range and were evaluated and scored by the technical evaluation committee on the basis of compliance with the statement of work and organizational experience requirements of the RFP.

Wellington's proposal received an initial technical score of 27.18 out of a possible 90 technical points, resulting in a ranking of fifth out of the 8 proposals within a range of

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scores with a low of 14.04 and a high of 66.70.^{1/} Oral and written discussions were then conducted with the eight firms in the competitive range. Following this round of discussions, offerors were asked to address in writing the technical deficiencies pointed out by the Army, which Wellington did. Proposals were then reevaluated and rescored by the technical evaluation committee. Although the technical score of Wellington's proposal was increased to 43.02 out of the possible 90 points, the proposal ranked eighth out of the 8 proposals, with the high score being 77.85. Wellington's proposal was excluded from the competitive range at this time since it was determined technically unacceptable.

Wellington contends that its proposal should have received a higher technical score and should not have been excluded from the competitive range. Wellington argues that its written response addressing the points raised during discussions demonstrates that its proposal meets all of the requirements of the RFP.

A determination that an initial proposal is within the competitive range does not necessarily imply that the proposal would be technically acceptable for award, it merely denotes that the proposal has a real possibility of being made acceptable and there is a reasonable chance it will be selected for award. See FAR § 15.609(a) (FAC 84-16); Space Communications Company, B-223326.2; B-223326.3, Oct. 2, 1986, 66 Comp. Gen. ___, 86-2 CPD ¶ 377.

It is clear from the evaluation record that Wellington's proposal was never fully acceptable given its initial technical score of 27.18 out of a possible 90 technical points. After one round of discussions, Wellington's proposal was determined to be unacceptable and was dropped from the competitive range.

In our view, then, the determinative issue for resolution is whether the agency acted properly in rejecting Wellington's proposal as technically unacceptable on the grounds that the firm's proposal did not adequately comply with the statement of work and organizational experience requirements of the RFP, specifically in the areas of (1) quality control,

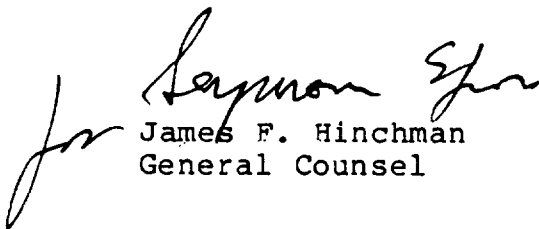
^{1/} Evaluation factors for award, weighted on a 100-point scale, were (1) compliance with statement of work (80 points), (2) organizational experience (10 points), and (3) cost (10 points).

(2) sanitation and food handling, (3) internal security controls, (4) standard operating procedures for menus and headcounts, (5) safety, fire prevention and utility conservation plans, (6) contingency plans for strike and inclement weather, and (7) contract management.

It is not the function of our Office to evaluate technical proposals de novo or resolve disputes over the scoring of technical proposals. Rather, we will examine an agency's evaluation only to ensure that it was reasonable and consistent with the stated evaluation criteria. The determination of the relative merits of a proposal, particularly with respect to technical considerations, is primarily a matter of administrative discretion, which we will not disturb unless it is shown to be arbitrary or in violation of the procurement laws or regulations. Pharmaceutical Systems, Inc., B-221847, May 19, 1986, 86-1 CPD ¶ 469. Moreover, the protester bears the burden of clearly establishing that an evaluation was unreasonable. A protester's mere disagreement with the agency's judgment does not meet this burden. Experimental Pathology Laboratories, 65 Comp. Gen. 386 (1986), 86-1 CPD ¶ 325.

The Army has provided for our in camera review copies of the technical evaluation committee's scoring sheets. The weaknesses found in Wellington's proposal all relate to technical evaluation criteria or subcriteria set out in the RFP. While Wellington contends its proposal meets all the requirements of the RFP, we find that the agency had reasonable bases for the conclusions it drew and the resulting technical scores assigned to Wellington's proposal. In some areas, such as standard operating procedures for menu items and headcounts, where the RFP required submission of fully developed procedures, Wellington's proposal only stated that such procedures would be developed. In other areas, such as instruction programs for sanitation and food handling, the Army found that Wellington's proposal only provided an outline and lacked specific details for carrying out such programs. Based on our review of the panel's evaluation sheets and Wellington's proposal, we, thus, find the evaluation to be reasonable. Wellington's disagreement with the agency's judgment is not enough to overcome this finding.

The protest is denied.


James F. Hinchman
General Counsel